

Internal Memo

TO: Mayor and Councillors
FROM: Allen Dwyer, General Manager
DATE: 20th December, 2017
REF:

RE: *Extraordinary Meeting of Council to be held Wednesday, 20th December, 2017*

Approval Process for DA 267/2017, Coolac Highway Service Centre

The time line for the proposed development was:

24th July, 2017 – Application lodged at Gundagai;

2nd August, 2017 – Neighbour Notification sent out;

17th August, 2017 – Advertising in papers and Council newsletter commenced and extended to 14th September ;

21st August, 2017 – further information requested “Stop the Clock” (additional further in formation was requested from RMS in September);

8th October, 2017 – the further information received and “Clock Starts again”;

28th November, 2017 – assessment report presented to Council and deferred pending the receipt of an independent legal opinion on the assessment by Council’s Planner;

12th December, 2017 – a progress report on the application was presented to Council advising that the legal advice highlighted a number of planning consideration that required additional investigation prior to determination. The last paragraph of the report read “Determination of the application can be undertaken once the additional information requested has been received and a further assessment has been undertaken by Council staff”

15th December, 2017 – Council Planning staff presented a compliant Development Assessment Report to the General Manager for consideration.

After due consideration of many factors including the time taken to process the application, the Council meeting cycle and the need to determine the application the General Manager invoked his delegated authority to sign off the determination. Council had been in receipt of the application for one hundred and forty one days, of which ninety three were active days (forty eight days of Stop the Clock). Council can be deemed to have refused the application if not determined within forty days, or sixty days in some cases, which can expose Council to litigation.

A copy of the Development Assessment Report is attached for perusal.

A copy of the resolution of delegation to the General Manager is also attached for the purpose of information.

DEVELOPMENT ASSESSMENT REPORT

*Pursuant to the Environmental Planning & Assessment Act 1979
Section 79C (as amended)*



DATE OF REPORT COMMENCEMENT:

15 December 2017

COUNCIL OFFICER COMPLETING DEVELOPMENT ASSESSMENT:

Grace Foulds

DEVELOPMENT REFERENCE:

DA 2017/267

DEVELOPMENT ADDRESS:

518 Coolac Road COOLAC

DEVELOPMENT LOT / SEC / PLAN:

Lot 100 DP 1065752

OWNER(S):

Mr A B & Mrs D L Scott

APPLICANT:

Mr J McMahon

APPLICANT ADDRESS:

58 Fitzroy Street
TUMUT
NSW 2720

PROPOSAL:

Highway Service Centre

ZONING (LEP):

RU1 – Primary Production

OTHER SPECIAL ZONING IMPACTS:

BACKGROUND:

In 2016 Cootamundra-Gundagai Regional Council completed a planning proposal which rezoned the northern portion of Coolac to SP3 – Tourism to support a development proposal of an unmanned fuel station. The SP3 Zone is the same zoning which applies to the Five Mile, also known as the Dog on the Tuckerbox and is generally a zone for highway services and tourism related activity.

While an application for an unmanned fuel station has not eventuated, Council received an Highway Service Centre, being this application, on 27 July 2017 after two pre lodgement meetings with the proponents.

Following consideration of submissions and independent legal advice, this application has been modified by the applicant to be just a highway service centre proposal and not include subdivision.

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PREVIOUS DEVELOPMENT PROPOSALS AND DECISIONS:

N/A

INTEGRATED / DESIGNATED / ADVERTISED / NEIGHBOUR NOTIFICATION / CROWN DEVELOPMENTS:

This application was notified to neighbours on 2 August 2017 with advertisement in the newspaper (Gundagai Independent and Cootamundra Herald) beginning on Thursday 17 August 2017. Both neighbour notification and the newspaper advertisement advised that submissions would be received until close of business 31 August 2017, in accordance with statutory guidelines of a minimum of 14 days for notification. However a newspaper article was published on Monday 28 August 2017 in the Gundagai Independent which raised public awareness and led to Council extending the date for submissions until close of business on 14 September 2017.

Council received total of 14 submissions both in support and opposition to the proposed development. A total of 37 individual issues were raised in submissions. The majority of these issues are addressed in this report, however issues around competition are not addressed as competition is not considered under Section 79C of the *Environmental Planning and Assessment Act 1979* when determining an application.

STATUTORY CONSIDERATIONS / EP&A ACT / EP&A REGULATION:

State Environmental Planning Policies (SEPPs):

State Environmental Planning Policy No 33 – Hazardous and Offensive Development

The proposed highway service centre is both a potentially hazardous industry and potentially offensive industry in accordance with the definition under clause 3 of this SEPP. In assessing in accordance with this SEPP, consideration was given to the Hazardous and Offensive Development Application Guidelines: Applying SEPP 33 2011 by the Department of Planning and Environment. A revised Statement of Environmental Effects dated 8 October 2017 includes an assessment against SEPP 33 by the applicant and concludes that the development by utilising a number of mitigating measures such as self-bunded underground fuel storage, will have negligible impact on the environment. In accordance with clause 14, this application was advertised. SEPP 33 is complied with.

State Environmental Planning Policy No 64 – Advertising and Signage

Signage fronting the Hume Highway and Muttama Road (aside from conditioned traffic signage) is not considered in this application and will be subject to a further development application at a later date. Signage considered in this application includes canopy/roof signage and signage along Coolac Road.

Clause 17 of this SEPP deals with signage which is 8 metres above the ground (see plan 15/17) and requires that Council and RMS be satisfied with the signage and that it be advertised. This has occurred.

Clause 21 deals with roof signage (see plan 6/17) and highlights that notwithstanding the period of consent issued to the development as a whole, consent for this signage expires after a period of 10 years.

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SEPP 64 is complied with.

State Environmental Planning Policy (Infrastructure) 2007

This development is assessed under this SEPP in accordance with Part 3, Division 17, Subdivision 2 with clauses 101 and 104 in particular.

In accordance with clause 101, vehicle access is facilitated via Coolac Road which is not a classified road and the classified road (being Muttama Road) will be augmented to ensure that the proposed development does not have an adverse impact on the current function of that road.

In accordance with clause 104, this development is considered a traffic generating development in line with Schedule 3 of this SEPP and was referred to RMS for consideration. The response provided by RMS was considered when compiling this report and conditions specified by RMS are listed in the proposed conditions.

SEPP (Infrastructure) is complied with.

Regional Environmental Planning Policies:

Riverina-Murray Regional Plan 2036

This development is consistent with the Regional Plan as it reduces the fragmentation of rural land and supports economic opportunities along major road and freight corridors.

Cootamundra LEP 2013:

N/A

Gundagai LEP 2011:

RU1 – Primary Production

Cootamundra-Gundagai Draft LEP:

N/A

Section 117 Directions:

N/A

Model Provisions:

N/A

Council Policy Considerations:

N/A

Cootamundra DCP:

N/A

Traffic Generating Guidelines:

Council has no adopted traffic generating guidelines, however Australian Standards for road design, load and car parking are referenced by the applicant and in conditions specified. While there is more than required car parking, Council and RMS do have some issues with the proposed light vehicle parking area layout. These issues include provision for pedestrians,

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real life vehicle movements and disabled car parking provision and location. This has been highlighted and proposed as a prior to construction certificate condition, that is, the applicant is to propose a new car parking layout for approval by the council and RMS.

Section 94 Contributions Policies:

N/A

Section 94a Contributions Policies:

The declared cost of development (quantity surveyors report provided by the applicant) has the indicative cost of development at \$9,277,155. The applicable contribution under Section 94A is \$92,771.55.

The applicant has expressed a desire to enter into a Works In Kind Agreement with Council. Because of this the condition for payment of Section 94A fees has been delayed until prior to occupation certificate and allows for the applicant to enter into a Works In Kind Agreement, should Council wish to do so in lieu of a Section 94A contribution.

REFERRALS:

This application was referred to RMS in accordance with SEPP (Infrastructure) 2007. RMS provided a detailed response on 16 November 2017. Recommendations from RMS have been considered in this report and inform a number of Council's conditions. Separate conditions requested by RMS are expressly listed as being conditions of RMS.

This application was referred to WaterNSW in relation to viability of a proposed bore and water security of the site. Separate application will be made by the applicant to WaterNSW for any future bore licence, however recommendation from WaterNSW that water security be assured before the development is complete has informed prior to construction certificate, condition 8.

SECTION 79C CONSIDERATIONS:

Provisions of any Environmental Planning Instrument:

RU1 – Primary Production

The use of proposed lot 12 being a highway service centre is an innominate use of the zone, meaning that it is not expressly listed as a permissible land use, but falls under the cover all of "any development not specified in item 2 or 4." The objectives of the RU1 Zone support primarily broad scale agriculture, however highway service centres are generally located along highways which invariably traverse rural land, meaning that such a land use is not uncommon or unexpected in this context.

Provision of any Draft Environmental Planning Instrument:

N/A

Development Control Plans:

N/A

Matters Prescribed by Regulations:

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N/A

Likely Impact of Development:

Context and Setting:

The proposed development fronts Coolac Road with direct access to the Muttama Road Overpass from the Hume Highway which is constructed to allow for B Double movements. The proposed development is in keeping with the sort of highway service industry highlighted for this area by the Draft Coolac Village Strategy.

Highway service centres are often located along major highways which invariably traverse rural land. The location of this proposed development is appropriate as it utilises existing highway accesses via the Muttama Road overpass to minimise disruption to highway traffic but also provide a convenient and safe route for potential patrons to access the facility.

Access, Transport and Traffic:

The proposed highway service centre utilises the wide road width of Coolac Road to allow for traffic movement and movement of large, long vehicles without impacting the Hume Highway. The site is accessed from the Hume Highway by the Muttama Road Overpass, which has the capacity to handle B double vehicles. Reconfiguration of the Muttama Road and Coolac Road intersection will be required with turning lanes installed as a minimum.

Public Domain:

The proposed development will be visible and has the potential to be physically intrusive on the surrounding landscape. To mitigate this, landscaping is proposed as a light, noise and odour barrier. To ensure the success of such a barrier it is proposed that a condition be applied to the development which will require the establishment of perimeter trees within 6 months of consent. Other landscaping can occur as the development progresses.

Utilities:

Connection to an energy supplier is possible at this site.

Heritage:

Despite the site having been activity grazed for a protracted period of time; Aboriginal significant/heritage has been addressed by the applicant with an AHIMS Report showing three site within proximity of the proposed development. The closest being 300m to the south in a railway corridor.

A study was conducted as a component of the Hume Highway, the "Navin Officer Heritage Consultants" study which did not identify any aboriginal artefacts on the site, but did note that a massacre is known to have occurred within the area between Mingay and Petitt (to the south of Coolac).

A site visit and walk through was conducted which did not identify any artefacts or evidence of aboriginal activity.

Council considers that due diligence has been taken by the applicant in addressing the possibility of disturbance to an artefact or sacred site.

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Other Land Resources:

N/A

Water:

The proposed highway service centre will have negligible impact on Muttama Creek, with stormwater retained and used on site in all but an extreme inundation events. Due to the distance of the development from Muttama Creek, the application was not referred to DPI Water for comment; however concerns about groundwater and access to bores meant that council felt it necessary to refer the application to WaterNSW. WaterNSW's response is summarised above.

The likelihood of contamination of groundwater is negligible as the underground tanks will be double banded and have warning and mitigation requirements to prevent leaks.

Water security for the development is an issue which has been raised and will be addressed with the developer providing proof to Council that they have secured a bore with capacity to supply 30,000 litres a day and/or they have another logistical arrangement for water provision.

Soil:

Land Capability Assessment supports the proposed highway service centre and associated septic system.

Air and Microclimate:

Disturbance to the air and microclimate may occur during construction, however conditions of consent will mitigate this.

Flora and Fauna:

The proposed highway service centre will have extensive tree plantings and gardens which will significantly increase the native flora in the area and fauna will also increase with the increase in habitat.

Waste:

During construction, all waste will be co-located on site and disposed of in accordance with Cootamundra-Gundagai Regional Council's waste management policy. During the operation of the highway service centre, waste will be collocated and disposed of in accordance with the development's waste management plan, which may include direct disposal at the Gundagai landfill facility.

Energy:

The proposed highway service centre will utilise rainwater tanks and a solar array to minimise energy burdens on the power network and surrounding landscape.

Natural Hazards:

The site is not mapped as being flood prone, however areas are mapped as being bushfire prone. The area mapped as being bushfire prone is not covered by the proposed development and as long as grass is kept to a maintainable level then the likelihood of a bushfire event impacting the proposed highway service centre is negligible.

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Social Impact and Locality:

The proposed development is in keeping with the Draft Coolac Village Strategy and has been generally well received by Coolac residents. The development offers employment opportunities for the area, but in particular Cootamundra which suffers from a lack of opportunities for youth employment.

Economic Impact and Locality:

The proposed development is likely to be a positive economic development for the Coolac Village. Existing businesses in Coolac have stated that they have no problem with the development and see that the expected increase in traffic can only be of benefit to the whole of Coolac. It is expected that the proposed highway service centre will impact the visitor numbers to Gundagai town itself in the short term, however Council will be constructing a million dollar adventure playground in the next twelve months which coupled with the upgrade of Sheridan Street will ensure that highway travellers seeking the "Gundagai Experience" will continue to stop and enjoy the town.

Some submissions raised the issue of competition with the existing Five Mile highway service centre and South Gundagai highway service centre; competition is not a consideration under 79C of the Environmental Planning and Assessment Act 1979. It is noted however that the Five Mile highway service centre has begun a process of rejuvenation and maintenance to prepare itself for the anticipated competition.

Site Design and Internal Design:

The proposed highway service centre fronts Coolac Road, utilising the wide pavement of the former highway for entry and exit to the site. The site is within proximity to the Muttama Road Overpass and will have negligible impact on the function of the Hume Highway and Coolac Road, south of the Muttama and Coolac Road intersection.

Construction Matters:

To be addressed as a part of the construction certificate.

Submissions:

Council received total of 14 submissions both in support and opposition to the proposed development. A total of 37 individual issues were raised in submissions. The majority of these issues are addressed in this report, however issues around competition are not addressed as competition is not considered under Section 79C of the *Environmental Planning and Assessment Act 1979* when determining an application.

Following consideration of submissions and independent legal advice, this application has been modified by the applicant to be just a highway service centre proposal and not include subdivision.

Redacted submissions are included as an attachment to this report.

Public Interest:

This proposed development has generated a lot of public interest, however this has not translated into many submissions – with total submissions for and against numbering just 14. Because of this it is hard to gauge whether public interest is the result of genuine concerns or

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here-say about the proposed development. Certainly, all submissions made have been addressed and have assisted in the assessment of this application and the formulation of conditions of consent.

FINANCIAL IMPACTS:

N/A

POLICY IMPACTS:

N/A

ORGANISATIONAL IMPACT:

N/A

RISK MANAGEMENT IMPACTS:

N/A

LEGAL ISSUES:

N/A

CONCLUSION:

The proposed highway service centre in an innominate use in the RU1 Zone and is therefore permissible with consent. All other matters of consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* have been addressed.

RECOMMENDATION:

That DA267/2017 be approved subject to the following conditions:

Determination and Conditions:

Application Approved subject to the following conditions and reasons: -

GENERAL CONDITIONS

(1) GEN Condition - Compliance Standards

Any building and associated works shall comply with the statutory requirements of the Environmental Planning & Assessment Act, Local Government Act, 1993 and the Building Code of Australia (BCA).

Reason: The legal obligations of the Council to administer the New South Wales building and planning laws in order to provide satisfactory standards of living and development.

(2) GEN Condition - Compliance with Council

The Development being completed in accordance with plans and specifications stamped by Council listed in the table below and the Statement of Environmental Effects, except where varied by conditions of this consent.

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COOTAMUNDRA-
GUNDAGAI REGIONAL COUNCIL

Document Reference	Description	Author	Date
3/17	Site Plan	AllSpec & Partners	24/7/17
5/17	Ground Floor Plan	AllSpec & Partners	25/7/17
6/17	Elevations	AllSpec & Partners	25/7/17
10/17	Fuel Dispenser Details	AllSpec & Partners	25/7/17
11/17	Site Landscaping Concept Plan	AllSpec & Partners	22/6/17
15/17	Service Station Main ID Sign	AllSpec & Partners	22/6/17
-	Statement of Environmental Effects	AllSpec & Partners	8/10/17

Reason: To confirm the details of the application as submitted by the applicant and as approved by Council.

(3) GEN Condition - Compliance with Legislation

Regardless of consent the applicant is still responsible for adhering to the requirements of State Legislation including (but not limited to) the Protection of Environment Operations Act and Dangerous Goods (Road and Rail Transport) Act.

Reason: This consent does not remove obligations imposed by State and Federal Legislation.

(4) GEN Condition - Utilities

Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.

Reason: To ensure that any public utilities are maintained and protected from damage.

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(5) Gen Condition – Not certify compliance with BCA or NCC

The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia or National Construction Code Series.

Reason: This consent does not certify compliance with the BCA or NCC.

(6) GEN Condition – Public Land Costs

Costs attributed to all work involved on public land shall be borne by the proponent.

Reason: Need for applicants to be reasonable for costs arising as a result of development work

(9) GEN Condition – Highway Signage

Highway signage or any signage fronting the Hume Highway or Muttama Road is not approved as a part of this application and is to be subject to a separate development application in accordance with State Environmental Planning Policy No 64 – Advertising and Signage.

Reason: to limit distraction to highway commuters and ensure consistency in signage.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

(1) PCC Condition - Certificates in Relation to Energy Efficiency.

Prior to obtaining a Construction Certificate, the Applicant shall furnish Council with Certificates in relation to energy efficiency. In general terms, these certificates shall be provided by appropriately qualified persons and reference compliance of the particular element of construction with Part J of the Building Code of Australia. Certificates shall be provided for the following parts of construction:

1. Building Fabric
2. External Glazing
3. Air Movement
4. Air Conditioning and Ventilation Systems
5. Artificial Lighting and Power
6. Hot Water Supply
7. Access for Maintenance

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Reason: To ensure the development meets the energy requirements of Section J of the Building Code of Australia.

(2) PCC Condition - Traffic Control Plan.

The applicant shall provide to Council, for approval, a Traffic Control Plan for those areas which involve work in the vicinity of the intersection of Muttama Road and Coolac Road to the Roads & Traffic Authority Guidelines.

Reason: To ensure acceptable standards of safety for both vehicular and pedestrian traffic.

(3) PCC Condition - Carpark Design.

A detailed car parking plan of the light vehicle parking area is to be submitted to Council and Roads and Maritime Services for approval and is to consider the following:

1. The path of the largest vehicles entering and exiting the subject site and manoeuvrability through the site in accordance with AS 2890.2-2002 "Off-street commercial vehicle facilities" and to Councils satisfaction. For road safety reasons, all vehicle access driveways, and the internal layout of the development, shall be designed and maintained to allow all vehicles to enter and exit the subject site in a forward direction and not be required to reverse onto the adjoining road reserve.

2. Facilities are to be provided within the car park to facilitate safe pedestrian movements throughout the car park. Pedestrian crossing stripes are not to be placed as it resembles to the pedestrian crossing on the road and creates confusion as to who has the priority. Raised pedestrian walkways enhance the visibility of the walkway and the safety of pedestrians.

3. Disabled car parking is to be provided at a rate of 1 space for every 50 car parking spaces or part thereof and is to be designed in accordance with AS/NZS 2890.6-2009.

Reason: To ensure that adequate and practical off-street parking and access to the development has been provided.

(4) PCC Condition – New Connection: Plumbing and Drainage Works.

An application shall be lodged and approved by Cootamundra-Gundagai Regional Council under Section 68 of the Local Government Act for any new water, sewerage or drainage connection prior to the issue of a Construction Certificate.

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All plumbing works must be undertaken by a licenced plumber or drainer. They must submit their Notice of Work (N.O.W) and pay for any associated inspections 48hrs before the first inspection. They also must submit a correct Sewer Service Diagram (S.S.D) for all works. The C.O.C and S.S.D. must be submitted before an Occupation Certificate can be released by the Principal Certifying Authority (P.C.A).

The proponent shall comply with all requirements tabled under any approval issued under section 68 of the *Local Government Act 1993*, NSW Fair Trading and The Plumbing Code of Australia.

Reason: Statutory compliance.

(5) PCC Condition - Onsite Sewerage Management System.

An application shall be lodged and approved by Cootamundra-Gundagai Regional Council under Section 68 of the Local Government Act for the installation of an onsite sewerage management system prior to the issue of a Construction Certificate. Details of the proposed system are to be included with the application detailing the tank capacity, type and location and size of effluent disposal area.

The proponent shall comply with all requirements tabled under any approval issued under section 68 of the Local Government Act.

Reason: To comply with the requirements of Section 68 of the Local Government Act.

(6) PCC Condition - Trade Waste Device Required.

Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council. This application is to be approved by Council prior to any discharge to sewer being commenced. A trade waste fee may be applicable in accordance with Council's adopted Fees and Charges.

Reason: To comply with Council's Trade Waste Policy

(7) PCC Condition - Driveway & Layback Installations.

The provision of adequate vehicle access, including the provision of an invert crossing at the kerb and gutter is required to be installed as part of the development. The installation of the vehicle access and kerb and gutter crossing are to be constructed in accordance with Councils "Typical vehicle kerb and gutter crossing KG 65/1".

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An Application is to be lodged with Council along with appropriate current fee's paid, for approval under Section 138 of the Roads Act 1993 prior to the issue of a Construction Certificate.

Twenty four (24) hours' notice is to be given to Council's Operations Department group before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the works and a need for reconstruction.

Reason: To ensure that adequate vehicle access is achieved and maintained throughout the development

(8) PCC Condition – Water Security

To ensure the viability of the highway service centre development, the applicant is to provide to Council proof that they have secured enough water via an approved bore or other logistical arrangement to allow for consumption of up to 30,000 litres a day.

Reason: to ensure the viability of the development.

PRIOR TO COMMENCEMENT OF WORKS

(1) PCW Condition – Prior to Building Work Commencing.

The erection of a building in accordance with the development consent must not commence until:-

1. a construction Certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
2. the person having the benefit of the development consent has:
 - a. appointed a principal certifying authority for the building work, and
 - b. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
3. the principal certifying authority has, no later than 2 days before building works commences:
 - a. notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - b. notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect to the building work, and

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4. the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has,
 - a. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - b. notified the principal certifying authority of any such appointment, and
 - c. unless that person is the principal contractor, notified the principal contractor of any critical stage inspection or other inspections that are to be carried out in respect of the building work.

Reason: To ensure compliance with the requirements of the Environmental Planning and Assessment Regulations.

(2) PCW Condition – Signage.

Site signage shall apply and must be erected on the site in a prominent, visible position for the duration of the construction. The signage must include: -

1. Statement that unauthorised entry to the site is not permitted
2. Show the name of the builder or another person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours
3. The name, address and telephone contact of the Principal Certifying Authority for the work

Any structures erected to meet the requirements of this condition must be removed when it is no longer required for the purpose for which it was erected.

Reason: To meet the minimum requirements of the Environmental Planning & Assessment Regulation.

(3) PCW Condition – Notice of Commencement.

Prior to work commencing a 'Notice of Commencement of Building Work and Appointment of Principal Certifying Authority' shall be submitted to Council at least 2 days prior to work commencing.

Reason: To meet the minimum requirements of the Environmental Planning & Assessment Regulation.

(4) PCW Condition – Public Safety – Hoardings.

A hoarding or fence must be erected between the building or site of the proposed building and the public place (street frontage). If necessary, an awning sufficient to prevent any substance from, or in connection with, the work, falling onto a public

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place is also to be erected. Such hoardings require separate approval by Council and must comply with the requirements of the WorkCover Authority.

The hoarding or fence is to be kept lit during the time between sunset and sunrise if the work may be a source of danger to persons using the public place.

The hoarding, fence or awning is to be removed when it is no longer required for the purposes for which it was provided. Restriction of public access to the building site shall restrict entry by members or equipment on the site when building work is in progress or the site is otherwise unoccupied.

Reason: To protect the general public.

(5) PCW Condition – Waste Storage During Construction.

Provision shall be made on site for the proper storage and disposal of waste such that no builders' waste shall be left in the open. Specific attention should be given to items which are subject to relocation by the action of wind, e.g. Paper, sheets of iron, ridge capping, cement and lime bags and the like.

Reason: To ensure that the site is not a source of wind-blown litter.

(6) PCW Condition – Construction Safeguards.

Fire precautions during construction are to comply with PART E1.9 Building Code of Australia. Not less than one fire extinguisher to suit Class A, B and C fires and electrical fires must be provided at all times on each storey adjacent to each required exit.

Reason: To provide a minimum standard of fire safety during construction.

(7) PCW Condition – Soil Erosion Control.

Details of the proposed sediment control measures are to be detailed in the site management plan which shall be submitted to and approved by the Principal Certifying Authority (PCA) prior to the commencement of any site works. The sediment and erosion control measures must be implemented prior to the commencement of any site works and be maintained throughout construction. A copy of the approved details must be forwarded to the Council and a copy shall be maintained on-site and be made available to Council officers upon request.

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Procedures shall be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited anywhere onto the public road reserve from trucks and associated equipment, and the proposed method of cleaning the roadway from such deposits. (Note: With regard to demolition of buildings, dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site).

Details of proposed sediment and erosion control measures shall include; a site plan; indicating the slope of land, access points & access control measures, location and type of sediment & erosion controls, location of existing vegetation to be retained, location of material stockpiles and storage areas, location of building operations and equipment, methods of sediment control, details of drainage systems and details of existing and proposed vegetation.

Reason: Because of the requirement to comply with appropriate standards for environmental control. Section 79C(1)(a), (b) & (e) of the Environmental Planning and Assessment Act 1979, as amended.

(8) PCW Condition – Underground Services.

The applicant shall locate and identify all existing underground services prior to commencement of works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed.

Reason: To ensure the utility services are protected and satisfactory for the proposed development.

ROADS AND MARITIME SERVICES

1. As a minimum a sealed Channelised Right Turn (CHR) and Auxiliary Left Turn (AUL) treatment is to be constructed at the intersection of Muttama Road and that part of Coolac Road to the north of Muttama Road. The intersection treatment is to be designed and constructed in accordance with the Austroads Guide to Road Design as amended by the supplements adopted by Roads and Maritime Services for the posted speed limit. The design vehicle is to be a B-Double heavy vehicle.
2. The required intersection treatment and ancillary median structures shall be designed and constructed so as to maintain appropriate vehicular access to Coolac Road to the south of Muttama Road in accordance with the Austroads Guide to Road Design as

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amended by the supplements adopted by Roads and Maritime Services for the posted speed limit.

3. Any vehicular access driveways to the subject property from the Hume Highway or Muttama Road shall be removed and the road reserve reinstated to match the surrounding roadside landform in accordance with Council requirements.
4. No signage with frontage or exposure to the Hume Highway is approved as part of this Development Application.
5. A management plan to address construction activity access and parking is to be prepared to ensure that suitable provision is available on site for all vehicles associated with the on-site works for the construction of the development to alleviate any need to park within, or load/unload from the road reserve of the public road network. Access to the development site shall be from Coolac Road only. Appropriate signage and fencing is to be installed and maintained to effect this requirement.
6. Any works within the road reserve of a Classified Road requires concurrence from Roads and Maritime Services under section 138 of the Roads Act 1993 prior to commencement of any such works. The developer is responsible for all public utility adjustment/relocation works, necessitated by the proposed development and as required by the various public utility authorities and/or their agents.
7. Works associated with the development shall be at no cost to Roads and Maritime Services.

DURING CONSTRUCTION

(1) DUR Condition – Works to be undertaken in Accordance with the Approval.

All proposed works to be undertaken are to be carried out in accordance with the conditions of development consent, approved construction certificate drawings and specifications.

Reason: ensure all works are carried out in accordance with the development consent.

(2) DUR Condition – Hours of Construction Site Works.

Construction site works including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council:-

Monday to Saturday from 7.00am to 7.00pm

Sundays and public holidays from 9.00am to 12.00pm

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The applicant is responsible to instruct and control subcontractors regarding hours of work.

Reason: So that the development does not reduce the amenity of the area.

(3) DUR Condition – Footpath Storage.

Building materials not to be stored on Council footway or nature strip at any time.

Reason: To ensure an adequate level of public safety is maintained.

(4) DUR Condition – Waste Removal.

All debris and any waste fill are to be removed from the site and disposed of at Cootamundra Garbage Depot, in the building refuse section of the garbage depot. Please note that a separate fee applies for disposal of waste at Council's waste depot. You should contact Council's Facilities Manager for an estimate of costs in this regard.

Reason: To ensure that the amenity and unsightly condition is minimised.

(5) DUR Condition - BCA Compliance.

All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

Reason: To ensure the building complies with the BCA.

(6) DUR Condition – Inspections.

The Principal Certifying Authority is to be given a minimum of 48 hours' notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice issued under Section 91A of the Environmental Planning and Assessment Act 1979.

All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

Reason: To ensure that adequate time is given of required inspections.

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(7) DUR Condition – Restricted Public Access.

It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied in accordance with WorkCover Regulations.

Reason: To ensure public safety is maintained.

(8) DUR Condition – Exit Doors.

In accordance with Clause D2.20 and Clause D2.21 of the Building Code of Australia, all exit doors must swing in the direction of egress. Exit doors must be readily openable without a key from the side that faces a person seeking egress, by a single handed downward action or pushing action on a single device which is located between 900mm and 1200mm from the floor.

Reason: To facilitate exit from the building.

(9) DUR Condition – Fire Hazard Index.

The early fire hazard indices of materials, linings and surface finishes must comply with specification C1.10 of the Building Code of Australia.

Reason: To suppress fire within places of public entertainment.

(10) DUR Condition – Disabled Fitouts.

All ramps, hand rails and ablution fitouts shall be installed in accordance with Australian Standard 1428.1-2009 "Design for Access and Mobility, Part 1: General Requirements for Access – Buildings".

Reason: To provide access for disabled people.

(11) DUR Condition – Provide Suitable Access.

Access is to be constructed to Council specification and location. The access is to be constructed and maintained at the owners cost such no soil erosion is caused.

Reason: To ensure that traffic movement generated by the development does not adversely affect the road system of the locality and that siltation of waterways is minimised.

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(12) DUR Condition – New connection: Plumbing and Drainage Works.

All plumbing works must be undertaken by a licenced Plumber or Drainer. They must submit their Notice of Work (N.O.W.) and pay for associated inspections 48hrs before the first inspection. They also must submit a Certificate of Compliance (C.O.C) after the work has been completed and also submit a correct Sewer Service Diagram (S.S.D.) for all works. The C.O.C and S.S.D must be submitted before an Occupation Certificate can be released by the Principal Certifying Authority (P.C.A.)

The proponent shall comply with all requirements tabled under any approval issued under Section 68 of *The Local Government Act 1993*, NSW Fair Trading and The Plumbing Code of Australia.

Reason: Statutory compliance.

POST CONSTRUCTION

(1) POC Condition – Occupation of Building.

A person must not commence occupation or use of the whole or any part of the buildings unless an occupation certificate has been issued by the appointed Principal Certifying Authority.

Reason: So that the development is substantially completed to a safe standard to allow use or occupation of said building.

(2) POC Condition – Compliance Certificates.

Prior to occupation of the building an Occupation Certificate is to be obtained. If Council is requested to issue the Occupation Certificate, all relevant compliance certificates must be submitted.

Reason: So that the development is substantially completed to a safe standard to allow use or occupation of said building.

(3) POC Condition – Landscaping, Fencing and Outdoor Structures.

All proposed landscaping, fencing and outdoor structures such as water tanks etc. are to be installed in strict accordance with the approved plans for the development prior to the release of a Final Occupation Certificate by the PCA.

Changes to these items during construction may require the submission of amended plans and a Section 96 Application to modify the development consent.

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Reason: So that the completed appearance and functionality of the development is maintained from that which was originally approved.

(4) POC Condition – Driveway and Layback Crossings.

The applicant shall ensure that the provision of an adequate vehicle access, including the provision of an invert crossing at the kerb and gutter is installed as part of the development. The installation of the vehicle access and kerb and gutter crossing are to be constructed in accordance with Councils 'Typical vehicle kerb and gutter crossing KG 65/1' and the approval issued under Section 138 of the Roads Act 1993.

Reason: To ensure appropriate vehicle access is provided to the development which does not adversely impact on pedestrian traffic or Council's public road infrastructure.

(5) POC Condition - Section 94A Contributions/Works In Kind Agreement.

At the time of submission of an Occupation Certificate all owing monies as they relate to Section 94A contributions must be paid in full or the Applicant and Council must have entered into a Works In Kind Agreement.

Section 94A contributions are calculated on the estimated cost of development as specified on the Development Application at time of lodgement and may be subject to change with the coming of a new financial year or revised estimated cost of development.

Reason: So that the Section 94A Developer Contributions are paid in accordance with Council's Section 94A policy.

(6) POC Condition – Treatment of Coolac Road

1. Signage shall be erected on the development site to provide motorists with directions from the development site to the Hume Highway. Signage is to be located on Coolac Road north of the development site advising that Coolac Road is a no through road.

2. The driveways to Coolac Road are to be located and the roadside maintained so as to provide the required Sight Distance criteria in accordance with Austroads Standards for the posted speed limit. Compliance with this requirement is to be certified by an appropriately qualified person prior to construction of the vehicular access.

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3. As a minimum the intersection of the proposed entry with Coolac Road is to be constructed to provide a sealed Channelised Right Turn (CHR) and the exit is to have a Basic Left Turn (BAL) treatment in accordance with the Austroads Guide to Road Design for the posted speed limit. As a minimum the driveways are to cater for B-Double vehicle access to and from the site to Coolac Road.

4. As a minimum all driveways shall be sealed from the edge of seal of the carriageway to the property boundary and be designed and constructed to a standard to accommodate the proposed vehicle traffic generated by the development. Vehicles movement areas within the development site shall be sealed to provide an all-weather surface.

5. A Full time "No Stopping" restriction is to be implemented along both sides of Coolac Road for the full frontage of the subject property to Coolac Road prior to commencement of any works, subject to Traffic Committee endorsement.

6. Suitable drainage treatment is to be implemented to retard any increased storm water run-off directly from the subject site on to the road reserve. Any access driveway is to be designed and constructed to prevent water from proceeding onto the carriageway of the adjoining public road network. Any culvert proposed to be located within the clear zone of Coolac Road for the posted speed limit shall be constructed with a driveable type headwall.

7. Any damage or disturbance to the road reserve of a public road network shall be restored to match surrounding landform in accordance with Council requirements.

Reason: *improve traffic flow and minimise impact on Coolac Residents*

ONGOING USE

(1) USE Condition – Annual Certificate.

The owner of the building shall submit to Council an 'Annual Fire Safety Statement' (Form 1) by 1 July, each subsequent year after obtaining a 'Fire Safety Certificate' for the building from Council.

The 'Annual Fire Safety Statement' shall comply with the provisions set out in the Environmental Planning & Assessment Regulation 2000. Forms for this purpose can be collected from Council's offices.

Reason: *To ensure that fire and other safety measures are maintained in a proper working condition.*

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(2) USE Condition – Discrimination Laws.

The applicant's attention is drawn to legislation regarding responsibility to provide an improved environment for disabled persons.

The *Disability Discrimination Act* (DDA) is commonwealth legislation that aims to increase the economic and social independence of people with a disability.

The DDA applies to discrimination against any person on the grounds of disability in the areas of: accommodation; education; access to premises; provision of goods; services and facilities; the activities of clubs or sports; and the request for information.

It should be noted that by the issuing of this consent the Council does not guarantee that all legislative requirements of the DDA or subsequent premises standards have been satisfied and that the owners/operators may still be subject to complaints being made under the DDA. It is advisable that the applicant should satisfy themselves with the requirements of the DDA and seek further professional advice if deemed necessary.

Reason: To clarify that the issuing of this development consent does not certify that the establishment or operation of the development satisfies all requirements of the *Disability Discrimination Act*.

(3) USE Condition – Establishment of Landscaping.

Proposed landscaping in accordance with the approved plans for tree planting shall be maintained to ensure a dense screen is established. Such plantings along the perimeter of the highway service centre development are to occur within six (6) months from the date of this approval.

Reason: To minimise visual impact and promote/enhance the rural character of the area and Council's concern that the amount of vegetation in the Shire should continue to increase to improve the climate and appearance.

(4) USE Condition – Hours of Operation.

The operation of the fuel bowzers and associated payment area are permitted to operate on a 24 hour, 7 days a week basis.

The operation of the truckers lounge area and food hall tenancies are to be conducted between the hours of:-

Monday to Saturday from 6am to 10pm

Sundays and public holidays from 6am to 10pm

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Reason: So that the development does not reduce the amenity of the area.

(5) USE Condition – Clean and Tidy.

The premises are to be maintained in a clean and tidy condition at all times.

Reason: So that the development does not reduce the amenity of the area.

(6) USE Condition –Amenity General.

The development is to be conducted in a manner that will not interfere with the amenity of the locality within reason. Mitigation of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, interference to television or radio reception or otherwise is to be considered during operation.

Reason: So that the development does not reduce the amenity of the area.

(7) USE Condition – Caretakers Residence

The existing dwelling on proposed lot 12 is to be the caretaker's residence of the highway service centre and is therefore ancillary to that land use. The dwelling cannot be used for residential accommodation within the meaning of the term in accordance with the Gundagai Local Environmental Plan 2011 once an occupation certificate is granted for the highway service centre.

Reason: to prevent the fragmentation of rural land.

(8) USE Condition – Vehicle Queuing

The development is to be designed and managed to ensure that vehicles do not queue onto Coolac Road.

Reason: to improve traffic flow and minimise impacts on Coolac residents

(9) USE Condition – Water Storage For Fire Fighting Purposes.

The water storage shall be by enclosed storage tanks with at least 200kl to be dedicated for firefighting purposes with a 40mm Storz water coupling suitable for connection to the local fire brigade water tanker.

Reason: To ensure that adequate water storage is available for self-sufficiency in fighting fires or a bushfire occurrence adjacent to the site.

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*Pursuant to the Environmental Planning & Assessment Act 1979
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DEVELOPMENT ASSESSMENT SIGNING OFFICER:

A handwritten signature in black ink, appearing to read 'G Foulds'.

Grace Foulds
Town Planner

15-12-17

Date

ADMINISTRATORS MINUTE

1) GENERAL MANAGER DELEGATIONS

At the Extraordinary Meeting of the newly proclaimed Council (then known as Gundagai Council) it was noted that Clause 18 of the *Local Government (Council Amalgamations) Proclamation 2016* carried forward delegations that were in place in both the former Cootamundra Shire Council and the former Gundagai Shire Council prior to the Proclamation of the merged Council.

At that meeting those delegations were reviewed with the following delegations determined and granted to the Interim General Manager as follows:

INTERIM GENERAL MANAGER

In order to provide for the expedient exercise and performance of Council's powers and duties and the efficient management of Council's business and responsibilities, under Section 377 of the Local Government Act 1993 the Gundagai Council hereby delegates to the person holding the office of Interim General Manager, or to the person holding the aforementioned position in an acting capacity, the exercise of Council's functions, which includes its powers, duties and authorities contained in legislation, and matters specified in Schedule 1, subject to the limitations specified in Schedule 2. This delegation shall remain in force until specifically altered or revoked in writing.

SCHEDULE 1

- 1.1 To carry out any function conferred on and duty imposed on the Interim General Manager under any Act or regulation;*
- 1.2 To affix the Common Seal of Council in conjunction with the Administrator to any necessary document pursuant to or consequent upon any decision of Council;*
- 1.3 To respond to media publicity on Council matters and to issue media releases and make statements to the media on behalf of Council, where appropriate;*
- 1.4 To approve attendance by Council Committee members at conferences/seminars etc. within NSW and ACT to a maximum of three days and within budget provisions;*
- 1.5 To authorise urgent works and other expenditures outside of the adopted budget up to an amount of \$20,000*

SCHEDULE 2

- 2.1 Subject to the provisions and limitations expressly set out in the Local Government Act 1993, as amended and any other legislation relevant to the delegations.*
- 2.2 The Interim General Manager shall exercise the functions herein delegated in accordance with and subject to all and every policy and code of the Council adopted by Resolution and current at the time of the exercise of the functions herein delegated.*

Subsequent to the recent appointment of the General Manager, and the renaming of the Council as 'Cootamundra Gundagai Regional Council' by the Governor of New South Wales on 7 September 2016, it is considered appropriate to review these delegations.

Section 377(1) of the Local Government Act 1993 provides Council with the power to resolve to delegate to the general manager or any other person or body (not including another employee

of the council) any of the functions of the council, other than the following:

- (a) the appointment of a general manager,
- (b) the making of a rate,
- (c) a determination under section 549 as to the levying of a rate,
- (d) the making of a charge,
- (e) the fixing of a fee,
- (f) the borrowing of money,
- (g) the voting of money for expenditure on its works, services or operations,
- (h) the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),
- (i) the acceptance of tenders to provide services currently provided by members of staff of the council,
- (j) the adoption of an operational plan under section 405,
- (k) the adoption of a financial statement included in an annual financial report,
- (l) a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,
- (m) the fixing of an amount or rate for the carrying out by the council of work on private land,
- (n) the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,
- (o) the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979,
- (p) the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194,
- (q) a decision under section 356 to contribute money or otherwise grant financial assistance to persons,
- (r) a decision under section 234 to grant leave of absence to the holder of a civic office,
- (s) the making of an application, or the giving of a notice, to the Governor or Minister,
- (t) this power of delegation ,
- (u) any function under this or any other Act that is expressly required to be exercised by resolution of the council.

In relation to subsection (q) above, section 1(A) states that, despite subsection (1), a council may delegate its functions relating to the granting of financial assistance if:

- (a) the financial assistance is part of a specified program, and

(b) the program is included in the council's draft operational plan for the year in which the financial assistance is proposed to be given, and

(c) the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and

(d) the program applies uniformly to all persons within the council's area or to a significant proportion of all the persons within the council's area.

Section 377(2) further provides Council with the power, by resolution, to sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the Council by the Departmental Chief Executive except as provided by the Instrument of delegation to the Council.

It is important to highlight that s377(l) was amended in September 2016 to provide Council with the ability to delegate to the General Manager the power to accept tenders except those for the provision of services currently provided by members of staff of the Council. This section previously prescribed that all tenders required to be invited by Council could only be accepted by Council resolution.

In order to optimise the functioning and operations of Council it is recommended the maximum allowable delegations be provided to the General Manager. Accordingly, it is proposed that the General Manager, or the person who acts in that position, be granted all of the functions, powers, duties and authorities of the Council that it may lawfully delegate under the Local Government Act 1993, any other Act, regulation, instrument, rule or the like (including any functions, powers, duties and authorities delegated to the Council by any authority, body, person or the like) except those functions prescribed in section 377(1) of the Local Government Act 1993 (as referred to and listed earlier in this report). It should be noted that by adopting this recommendation, the General Manager will also receive the powers prescribed in s377(1)(A).

RECOMMENDATION

1. That any previous delegations to the Interim General Manager, or to the person holding that position in an acting capacity, be revoked.

2. That the General Manager, or the person who acts in that position be delegated; all of the functions, powers, duties and authorities of the Council that it may lawfully delegate under the Local Government Act 1993, any other Act, regulation, instrument, rule or the like (including any functions, powers, duties and authorities delegated to the Council by any authority, body, person or the like) other than those functions prescribed in section 377(1) of the Local Government Act 1993 as functions which may not be delegated.



Allen Dwyer
General Manager

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